



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST-NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/041,954 | 01/07/2002 | Daniel Ahles | 1DATA.047A | 4914 |

20995 7590 11/03/2006

Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

EXAMINER

POINVIL, FRANTZY

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3692

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------|--------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/041,954 | AHLES ET AL. | |
| | Examiner | Art Unit | |
| | Frantzy Poinvil | 3628 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 January 1979.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-79 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 32-42 is/are allowed.
- 6) ☒ Claim(s) 1-31 and 43-79 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/23/02; 4/12/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 1-31 and 43-61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1, line 13, "the promissory check" lacks clear antecedent basis. Also on line 16, "the tendered promissory payment" lacks clear antecedent basis.

As per claim 18, line 11, "the tendered promissory payment" lacks clear antecedent basis.

As per claim 23, lines 1-2, "the pre-selected period of time" lacks clear antecedent basis.

As per claim 43, lines 15-16, "the point of sale" lacks clear antecedent basis.

Claims not directly addressed are rejected based on their dependency.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 62-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Shkedy (US Patent No. 6,260,024).

As per claim 62, in the applicant's admitted prior art specifically pages 1 and 2 of the Description of the Related Art section, it is described well known systems or methods for approving an internet based financial transaction between a customer and a merchant wherein a customer payment is exchanged for merchant vendibles. The system further comprises performing a risk assessment based on transaction information obtained from the customer and then merchant via an interface device and to generate a risk score, wherein, if the risk score is classified as a low risk, the Internet based financial transaction is approved, and wherein, if the risk score is classified as high risk, the Internet based financial transaction is declined, and wherein if the risk score is classified as moderate risk the internet based financial transaction is provisionally authorized; see pages 1 and 2 of the Description of the Related Art section.

A delivery delay module that is configured to delay the delivery of the merchant vendibles for a period of time when the Internet based financial transaction is provisionally authorized is not explicitly stated. Such is described by Shkedy. Shkedy discloses a system and method for facilitating buyers in an Internet based financial transaction. See the abstract. The description of the Related Art section also describes wherein additional transaction information is obtained from the customer via the interface device during the period of time to determine if the Internet based financial transaction can be classified as low risk.

The system of Shkedy also further comprises an authorization module that is configured to authorized delivery of the merchant vendibles after a period of time (see column 6, lines 53-63 of Shkedy) when the additional transaction information from the customer indicates that the risk score of the internet based financial transaction can be classified as low risk.

Shkedy further teaches determining and verifying the availability of funds in a checking account belonging to the customer to cover the cost of the financial transaction. See column 9, lines 35-53. Shkedy also determines the ability of the merchant to deliver vendibles. See column 10, lines 11-26 of Shkedy.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Shkedy with what was known as described in the prior art section of the instant application in order to delivery goods to a purchaser when funds are recovered by a seller.


Claims 1-61 are allowable over the art of record.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday form 7:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Frantzy Poinvil
Primary Examiner
Art Unit 3628

FP
October 27, 2006